

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOM MARK FRANKS, SR.,

Plaintiff, No. CIV S-05-0078 MCE GGH P

vs.

MEDICAL DEPT. OF CA.
DEPT. OF CORRECTIONS, et al.,

Defendants. FINDINGS AND RECOMMENDATIONS

By an order filed August 12, 2005, plaintiff was ordered to file an in forma pauperis affidavit AND/OR pay the appropriate filing fees within thirty days and was cautioned that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and plaintiff has not responded to the court's order and has not filed an in forma pauperis affidavit AND/OR paid the appropriate filing fee. Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned

1 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
2 shall be served and filed within ten days after service of the objections. The parties are advised
3 that failure to file objections within the specified time may waive the right to appeal the District
4 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

5 DATED: 11/8/05

6 /s/ Gregory G. Hollows
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UNITED STATES MAGISTRATE JUDGE
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